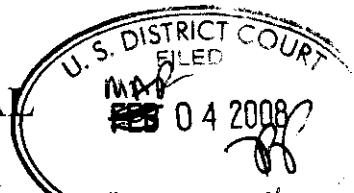


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORKDocument # 22

U.S.C.A. # \_\_\_\_\_

*Goodvee*

-v-

*The Mental Health Unit of Sullivan...*U.S.D.C. # 07-cv-5535JUDGE: WTFDATE: 3-4-2008

## INDEX TO THE RECORD ON APPEAL

PREPARED BY (NAME): THOMAS R. PISARCYK  
 FIRM: U.S. DISTRICT COURT - SOUTHERN DISTRICT OF NEW YORK  
 ADDRESS: 500 PEARL STREET, ROOM 370  
NEW YORK, NEW YORK 10007  
 PHONE NO.: (212) 805 - 0636

## DISTRICT COURT DOCKET ENTRIES -----

DOCUMENT DESCRIPTION	DOC. #
<u>CLERK'S CERTIFICATE</u>	_____
<u>SEE ATTACHED LIST OF NUMBERED DOCUMENTS</u>	_____
<b><u>** ONLY CIRCLED DOCUMENTS ARE INCLUDED **</u></b>	_____
<b><u>** ALL OTHERS MISSING AT THIS TIME **</u></b>	_____

Original Record       Supplemental Record

The record in the above entitled case was indexed to the U.S.C.A.  
for the Second Circuit on the 9th Day of March, 2008.

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

Gardner

-V-

## The Mental Health Unit of Sullivan

U.S.C.A. # \_\_\_\_\_

U.S.D.C. # 07CW 5535

JUDGE: WTR

DATE: 3-4-2008

## Clerk's Certificate

I, J. Michael McMahon, Clerk of the Court of the United States District Court for the Southern District of New York, do hereby certify that the certified copy of the docket entries and the original filed papers numbered 1 Through 20, inclusive, constitutes the Original record on appeal in the above entitled proceedings except for the following missing documents:

Date Filed

### Document Description

BALANCE OF FILE MISSING AT THIS TIME

In Testimony Whereof, I have caused the seal of said Court to be hereunto affixed, at the City of New York,  
this 1<sup>st</sup> Day of January In this year of our Lord, Two Thousand and Eight, and the Independence of  
the United States this 232<sup>ND</sup> year.

J. Michael McMahon, Clerk

By

Property Clerk

APPEAL, CLOSED, PRO-SE

**U.S. District Court**  
**United States District Court for the Southern District of New York (Foley Square)**  
**CIVIL DOCKET FOR CASE #: 1:07-cv-05535-WHP**  
**Internal Use Only**

Gardner v. The Mental Health Unit of Sullivan Correctional Facility et al  
Assigned to: Judge William H. Pauley, III  
Demand: \$1,000,000  
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 06/11/2007  
Date Terminated: 12/18/2007  
Jury Demand: Both  
Nature of Suit: 555 Prisoner: Prison Condition  
Jurisdiction: Federal Question

Date Filed	#	Docket Text
06/11/2007	1	ENDORSEMENT on Declaration in Support of Request to Proceed In Forma Pauperis, I.F.P. REQUEST IS GRANTED. (Signed by Judge Kimba M. Wood on 06/08/2007) (jeh) (Entered: 06/25/2007)
06/11/2007	2	COMPLAINT against The Mental Health Unit of Sullivan Correctional Facility, Banyon, Kahn, Darbee. Document filed by Phillip Jerome Gardner.(jeh) (Entered: 06/25/2007)
06/11/2007		Magistrate Judge Frank Maas is so designated. (jeh) (Entered: 06/25/2007)
06/11/2007	3	MOTION to Appoint Counsel. Document filed by Phillip Jerome Gardner.(jeh) (Entered: 06/25/2007)
08/21/2007	4	ORDER FOR INITIAL PRETRIAL CONFERENCE: Initial Conference set for 10/12/2007 at 12:00 PM in Courtroom 11D, 500 Pearl Street, New York, NY 10007 before Judge William H. Pauley III. (Signed by Judge William H. Pauley III on 8/16/07) (tro) (Entered: 08/22/2007)
09/07/2007	5	MARSHAL'S PROCESS RECEIPT AND RETURN OF SERVICE UNEXECUTED as to Kahn. Attempted Service of Summons and Complaint. Service was attempted on 8/14/07. Document filed by Phillip Jerome Gardner. (jco) (Entered: 09/10/2007)
09/07/2007	6	MARSHAL'S PROCESS RECEIPT AND RETURN OF SERVICE EXECUTED Summons and Complaint served. Darbee served on 8/17/2007, answer due 9/6/2007. Service was accepted by F, Darbee, R.N., (personal service). Document filed by Phillip Jerome Gardner. (db) (Entered: 09/10/2007)
09/07/2007	7	MARSHAL'S PROCESS RECEIPT AND RETURN OF SERVICE EXECUTED Summons and Complaint served. Banyon served on 8/20/2007, answer due 9/10/2007. Service was accepted by Peter Durfee. Document filed by Phillip Jerome Gardner. (dle) (Entered: 09/10/2007)
09/26/2007	8	ENDORSED LETTER addressed to Judge William H. Pauley from Kevin McCaffrey dated 8/23/07 re: Counsel for defendant Diane Banyon, R.N. requests an extension of time until 10/1/07 to answer or otherwise respond to the complaint. ENDORSEMENT: Application granted. Banyon answer due 10/1/2007. (Signed by Judge William H. Pauley III on 9/10/07) (tro) (Entered: 09/27/2007)
10/01/2007	9	ANSWER to Complaint with JURY DEMAND. Document filed by Banyon, Darbee.(pl) (Entered: 10/02/2007)
10/09/2007	10	ENDORSED LETTER addressed to Judge William H. Pauley from Kevin McCaffrey dated 10/1/07 re: Counsel for defendant requests that the Court schedule a pre-motion conference. ENDORSEMENT: Application GRANTED. A conference will be held concurrently with the initial pre-trial conference on 10/12/07 at 12:00 p.m. So Ordered. (Signed by Judge William H. Pauley III on 10/4/07) (js) (Entered: 10/09/2007)
10/19/2007	11	ORDER denying without prejudice 3 Motion to Appoint Counsel, and as further set forth in this document. (Signed by Judge William H. Pauley III on 10/12/07) copies sent by chambers.(ed) (Entered: 10/22/2007)
11/01/2007	12	SCHEDULING ORDER: Plaintiff Pro Se and counsel to Defendants having appeared before the Court for a conference on the record on October 12, 2007, the following schedule is established on consent: Defendants are to provide copies of all concerning the two incidents at issue in the Complaint, as well as medical records, to Pro Se by November 2, 2007. Defendants are to file and serve a motion for judgment on the pleadings by November 2, 2007. Responses due by 11/29/2007, Replies due by 12/10/2007, Discovery due by 1/18/2008, Joint Pretrial Order due by 2/15/2008. Final Pretrial Conference set for 2/29/2008 at 10:30 AM before Judge William H. Pauley III. (Signed by Judge William H. Pauley III on 10/23/2007) Copies Mailed By Chambers.(mbe) (Entered: 11/05/2007)
11/02/2007	13	MOTION to Dismiss purs to FRCP 12(c). Document filed by Banyon, Darbee. Responses due by 11/29/2007(djc) (Entered: 11/05/2007)
11/02/2007	14	NOTICE of to Pro Se Litigant Opposing Motion to Dismiss. Document filed by The Mental Health Unit of Sullivan Correctional Facility, Banyon, Kahn, Darbee. (djc) (Entered: 11/05/2007)
11/02/2007	15	MEMORANDUM OF LAW in Support re: 13 MOTION to Dismiss. Document filed by The Mental Health Unit of Sullivan Correctional Facility, Banyon, Kahn, Darbee. (djc) (Entered: 11/05/2007)
12/18/2007	16	ORDER OF DISMISSAL this case is dismissed for the reasons set forth on the record on December 14, 2007. The Clerk of the Court is directed to mark this case closed. SO ORDERED. (Signed by Judge William H. Pauley, III on 12/17/2007) (jmi) (Entered: 12/19/2007)

01/02/2008	17	LETTER addressed to Judge William H. Pauley from Kevin McCaffrey dated 11/27/07 re: request permission to file a motion to dismiss the complaint for failure to prosecute pursuant to Rule 41(b) of the F.R.C.P. w/ attach. Notice of Deposition. Document filed by The Mental Health Unit of Sullivan Correctional Facility, Banyon, Kahn, Darbee.(pl) Modified on 1/8/2008 (pl). Modified on 1/8/2008 (pl). (Entered: 01/08/2008)
01/25/2008	18	MOTION for Extension of Time to File a Notice of Appeal. Document filed by Phillip Jerome Gardner.(ae) (Entered: 02/20/2008)
01/25/2008	20	NOTICE OF APPEAL from <u>16</u> Order of Dismissal. Document filed by Phillip Jerome Gardner. Copies mailed to attorney(s) of record: Attorney General, NYS. (tp) (Entered: 03/04/2008)
01/25/2008		Appeal Remark as to <u>20</u> Notice of Appeal filed by Phillip Jerome Gardner. NO FEE. IFP GRANTED 6/8/07. (tp) (Entered: 03/04/2008)
02/28/2008	19	ORDER granting <u>18</u> Motion for Extension of Time to File. (Signed by Judge William H. Pauley, III on 2/25/08) Copies Mailed By Chambers.(cd) (Entered: 02/28/2008)
03/04/2008		Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: <u>20</u> Notice of Appeal. (tp) (Entered: 03/04/2008)
03/04/2008		Transmission of Notice of Appeal to the District Judge re: <u>20</u> Notice of Appeal. (tp) (Entered: 03/04/2008)